IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 10TH OCTOBER 2007 / 18TH ASWINA 1929

Bail Appl..No. 6043 of 2007()

(CRIME NO.194 OF 2007 OF TOWN POLICE STATION,KOZHIKODE)

PETITIONER/ACCUSED:

ABDUL RAZAK, S/O. ALI, AGED 46 YEARS,
ERANCHIPALAM POST, KOZHIKODE DISTRICT.

BY ADV. SRI.K.P.SUDHEER

RESPONDENT: COMPLAINANT:

STATE OF KERALA, REP. BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM, REPRESENTING SUB INSPECTOR OF POLICE,
TOWN POLICE STATION, KOZHIKODE.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

R. BASANT, J.

B.A. No. 6043 OF 2007

Dated this the 10th day of October, 2007

ORDER

Application for anticipatory bail. The petitioner is the sole accused in a crime. It was initially registered under Sec.324 of the IPC. Subsequently, the section of offence has been altered to Sec.308 of the IPC. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The prosecution alleges that the petitioner had attacked the victim and stabbed him with a knife on his abdomen. A deep injury has resulted and the injury extended to the covering of the liver. Investigation is in progress. According to the prosecution, rivalries between the A.I.T.U.C. and C.I.T.U. had prompted the petitioner to commit the offence alleged. The petitioner belongs to the A.I.T.U. and the victim belongs to the C.I.T.U.

3. According to the learned counsel for the petitioner, the petitioner is absolutely innocent. False allegations are being raised against the petitioner. The petitioner is the victim of aggression. Sec.308 of the IPC has been unnecessarily included merely because the de facto complainant happens to be a person owing allegiance to the C.I.T.U. Police is blindly dancing to the tunes of the C.I.T.U, it is submitted. The petitioner may, in these circumstances, be saved of the undeserved trauma of arrest and detention, submits the learned counsel for the petitioner.

4. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that there are series of incidents between the C.I.T.U. and the A.I.T.U. The petitioner is involved in three other crimes also. Sec.107 proceedings have been initiated to maintain the law and order situation in the locality. At any rate, the petitioner is not entitled for the invocation of the discretion under Sec.438 of the Cr.P.C., submits the learned Public Prosecutor.

5. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. The learned Public Prosecutor has explained why Sec.308 of the IPC has subsequently been included. The statement of the Doctor has been read over to me. Though the petitioner contends that this

case is a counter case to Crime No.195/07, the learned Public Prosecutor submits that it is not a counter case in the strict sense. There has been series of incidents between the C.I.T.U. and the A.I.T.U. workers and these two cases are two of such incidents.

6. I am in agreement with the learned Public Prosecutor that this is a fit case where the petitioner must appear before the Investigating Officer or the learned Magistrate having jurisdiction and then seek regular bail in the ordinary course.

7. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the Investigating Officer or the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge